

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 667 - HB 788

March 11, 2017

SUMMARY OF BILL: Requires a minimum hourly rate of \$100 per hour for attorneys, other than public defenders and post-conviction defenders, appointed to represent indigent defendants.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$17,404,200/Indigent Defense Fund

Assumptions:

- Currently, appointed counsel in all cases except capital murder cases receives \$50 per hour for in court work and \$40 per hour for out-of-court work.
- The proposed legislation would require the minimum rate for appointed counsel to be \$100 per hour. The proposed legislation would require the \$100 per hour rate for cases under title 40, chapter 14, part 2, which is assumed to include felony and misdemeanor cases.
- In 2016, the total in-court hours billed to the indigent defense fund for non-capital criminal cases were 20,375.1. These are billed at \$50 per hour for a total of \$1,018,755. The total out-of-court hours billed to the indigent defense fund for non-capital cases were 270,182.8. These are billed at \$40 per hour for a total of \$10,807,312.
- In capital cases, a defendant is appointed two attorneys, a lead attorney and a co-counsel. The lead attorney is compensated \$100 per hour for in-court time and \$75 per hour for out-of-court time. A co-counsel is compensated \$80 per hour for in-court time and \$60 per hour for out-of-court time. It is assumed that both attorneys appear in court at all times, and that the average cost per hour billed is \$90 per hour. It is further assumed that a lead attorney performs most of the out-of-court work, and that the average cost per hour is \$70 per hour, which is weighted toward the lead attorney's out-of-court rate to reflect the increased work completed by the lead attorney out of court.
- In 2016, the total in-court hours billed to the indigent defense fund for capital cases were 235.1. It is assumed that these are billed at \$90 per hour for a total of \$21,159. The total out-of-court hours billed to the indigent defense fund for capital cases were 5,736. It is assumed that these are billed at \$70 per hour for a total of \$401,520.
- The total amount paid in 2016 was \$12,248,746 (\$1,018,755 + \$10,807,312 + \$21,159 + \$401,520).

- It is assumed that the Supreme Court will set the hourly rate of compensation for appointed attorneys at \$100, regardless of whether the case is capital or non-capital and whether or not the work is in-court or out-of-court.
- Under the proposed legislation the total amount paid would be \$29,652,900 $[(20,375.1 \times \$100) + (270,182.8 \times \$100) + (235.1 \times \$100) + (5,736 \times \$100)]$.
- The proposed legislation would increase expenditures from the Indigent Defense Fund by \$17,404,154 $(\$29,652,900 - \$12,248,746)$.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm